

shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons prior to handling them in accordance with §979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraphs (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with §979.152.

(3) *Experimental shipments.* (i) Upon approval by the committee, melons may be shipped for experimental purposes exempt from the container requirements specified in paragraph (b) of this section, but shall meet the grade and inspection requirements of paragraphs (a) and (c) of this section and the assessment requirements specified in §979.219: *Provided*, That the melons are handled in accordance with safeguard provisions of paragraph (f) of this section.

(ii) Upon approval of the committee, melons may be shipped for testing in types and sizes of containers other than those specified in paragraphs (b) and (e)(4) of this section: *Provided*, That the melons are handled in accordance with the provisions of paragraph (f) of this section.

(4) The handling to any person of gift packages of melons not exceeding 25 pounds per package, individually addressed to such person and not for resale, is exempt from the container requirements of paragraph (b) of this section, but shall meet all assessment requirements of §979.42 and the grade and inspection requirements of paragraphs (a) and (c) respectively of this section.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning, freezing, or experimental purposes under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* *U.S. melon standards* mean the United States Standards for Grades of Cantaloupes (7 CFR 2851.475 through 2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740 through 2851.3749), whichever is applicable, or variations thereof specified in this section. The term *U.S. Commercial* shall have the same meaning as set forth in these standards. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

[47 FR 13118, Mar. 29, 1982, as amended at 47 FR 24110, June 3, 1982; 48 FR 21881, May 16, 1983; 49 FR 15542, Apr. 19, 1984; 50 FR 10207, Mar. 14, 1985; 51 FR 16004, Apr. 30, 1986; 52 FR 17390, May 8, 1987; 53 FR 4958, Feb. 19, 1988; 54 FR 13507, Apr. 4, 1989; 55 FR 19721, May 11, 1990; 59 FR 13432, Mar. 22, 1994; 61 FR 7409, Feb. 28, 1996; 64 FR 23759, May 4, 1999]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g., sections .200 through .299) and "Handling" regulations (e.g., sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

## PART 980—VEGETABLES; IMPORT REGULATIONS

Sec.

980.1 Import regulations; Irish potatoes.

980.117 Import regulations; onions.

980.212 Import regulations; tomatoes.

980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.

## Agricultural Marketing Service, USDA

## § 980.1

AUTHORITY: 7 U.S.C. 601-674.

### § 980.1 Import regulations; Irish potatoes.

(a) *Findings and determinations with respect to imports of Irish potatoes.* (1) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby found that:

(i) Grade, size, quality, and maturity regulations have been issued from time to time pursuant to the following marketing orders: No. 949 (part 949 of this chapter), No. 945 (part 945 of this chapter), No. 948 (part 948 of this chapter), No. 947 (part 947 of this chapter), No. 950 (part 950 of this chapter), No. 946 (part 946 of this chapter), and No. 953 (part 953 of this chapter);

(ii) During the past several years, grade, size, quality, and maturity regulations have been in effect pursuant to two or more of such orders during each month of the year;

(iii) The marketing of Irish potatoes can be reasonably distinguished by the several seasonal categories, i.e., winter, early spring, late spring, early summer, late summer, and fall. The bulk of the fall crop is harvested and placed in storage in the fall and marketed over a period of several months extending into the following summer. But potatoes harvested from the other seasonal crops are generally marketed as the potatoes are harvested. The marketing seasons for these crops overlap.

(iv) Concurrent grade, size, quality, and maturity regulations under two or more of the aforesaid marketing orders are expected in the ensuing and future seasons, as in the past.

(2) Therefore it is hereby determined that:

(i) Imports of red-skinned, round type potatoes during the months of October through the following June are in most direct competition with the marketing of the same type potatoes produced in Area 2, Colorado (San Luis Valley) covered by Order No. 948, as amended (part 948 of this chapter); and during the months of July through September, the marketing of the same type of potatoes is in most direct competition with the same type as produced in the area cov-

ered by Order No. 946 (part 946 of this chapter).

(ii) Imports of all other round type potatoes during the period June 5 through July 31 are in most direct competition with the marketing of the same type potatoes produced in the Southeastern States covered by Order No. 953 (part 953 of this chapter); and during the period August 1 through June 4 of the following year they are in most direct competition with all other round type potatoes produced in Area No. 3, Colorado (Northern Colorado) covered by Marketing Order No. 948, as amended (part 948 of this chapter): *Provided*, That for the period March 6 through June 14, 1968, imports of all other round type potatoes are in most direct competition with the marketing of the same type potatoes produced in the State of Maine covered by Order No. 950 (part 950 of this chapter): *Provided further*, That for the period June 1 through June 4, 1970, imports of all other round type potatoes are in most direct competition with the marketing of the same type potatoes produced in the Southeastern States covered by Order No. 953 (part 953 of this chapter): *Provided further*, That for the period June 1 through June 4, 1971, imports of all other round type potatoes are in most direct competition with the marketing of the same type potatoes produced in the Southeastern States covered by Order No. 953 (part 953 of this chapter).

(iii) Imports of long type potatoes during each month of the marketing year are in most direct competition with potatoes of the same type produced in the area covered by Order No. 945 (part 945 of this chapter).

(b) *Grade, size, quality, and maturity requirements.* On and after the effective date hereof importation of Irish potatoes, except certified seed potatoes, shall be prohibited unless they comply with the following requirements.

(1) For the period October 1 through the following June of each marketing year, the grade, size, quality, and maturity requirements of Area No. 2, Colorado (San Luis Valley) covered by Marketing Order No. 948, as amended (part 948 of this chapter) applicable to potatoes of the red-skinned round type; and from July 1 through September 30

each marketing year the grade, size, quality, and maturity requirements of Marketing Order No. 946 (part 946 of this chapter) shall be the respective grade, size, quality, and maturity requirements for imported red-skinned round type potatoes, except there shall be no size requirements for imported red-skinned round type of potatoes that are imported in containers containing a net weight of 3 pounds or less, if the potatoes are U.S. No.1 grade or better.

(2) During the period June 5 through July 31 of each marketing year, the grade, size, quality, and maturity requirements of Marketing Order No. 953 (part 953 of this chapter) applicable to potatoes of the round type shall be the respective grade, size, quality, and maturity requirements for imports of other round type potatoes; and during the period August 1 through the following June 4 of each year the grade, size, quality, and maturity requirements of Area No. 3, Colorado (northern Colorado) covered by Marketing Order No. 948, as amended (part 948 of this chapter) shall be the respective grade, size, quality, and maturity requirements for imports of all other round type potatoes: *Provided*, That for the period March 6 through June 14, 1968, the grade, size, quality, and maturity requirements of Marketing Order No. 950, as amended (part 950 of this chapter) applicable to potatoes of the round type shall be the respective grade, size, quality, and maturity for imports of other round type potatoes: *Provided further*, That for the period June 1 through June 4, 1970, the grade, size, quality, and maturity requirements of Marketing Order No. 953, as amended (part 953 of this chapter) applicable to potatoes of the round types shall be the respective grade, size, quality, and maturity for imports of other round type potatoes: *Provided further*, That for the period June 1 through 4, 1971, the grade, size, quality, and maturity requirements of Marketing Order No. 953, as amended (part 953 of this chapter) applicable to potatoes of the round types shall be the respective grade, size, quality, and maturity for imports of other round type potatoes.

(3) Through the entire year the grade, size, quality, and maturity requirements of Marketing Order 945, as amended (part 945 of this chapter) applicable to potatoes of all long types shall be the respective grade, size, quality, and maturity requirements for imported potatoes of all long types.

(4) The grade, size, quality, and maturity requirements as provided for in this paragraph shall apply to imports of similar types of potatoes, unless otherwise ordered, on and after the effective date of the applicable domestic regulation or amendment thereto, as provided in this paragraph or 3 days following publication of such regulation or amendment in the FEDERAL REGISTER, whichever is later.

(c) *Minimum quantities*. Any importation which, in the aggregate, does not exceed 500 pounds may be imported without regard to the provisions of this section.

(d) *Plant quarantine*. No provisions of this section shall supersede the restrictions or prohibitions of potatoes under the Plant Quarantine Act of 1912.

(e) *Certified seed*. Certified seed potatoes shall include only those potatoes which are officially certified and tagged as seed potatoes by the Plant Health Directorate, Food Production and Inspection Branch, Agriculture Canada, and which are subsequently used as seed.

(f) *Designation of governmental inspection services*. The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are hereby designated as governmental inspection services for the purpose of certifying the grade, size, quality, and maturity of Irish potatoes that are imported, or to be imported, into the United States under the provisions of section 8e of the Act.

(g) *Inspection and official inspection certificates*. An official inspection certificate certifying the potatoes meet the United States import requirements for Irish potatoes under section 8e (7

## Agricultural Marketing Service, USDA

## § 980.1

U.S.C. 608e) issued by a designated governmental inspection service applicable to a particular shipment of potatoes is required on all imports of potatoes other than certified seed.

(1)(i) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables, and other products (part 51 of this title), and each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(ii) Since inspectors may not be stationed in the immediate vicinity of a port, or point of entry, an importer of uninspected and uncertified Irish potatoes should make advance arrangements for inspection. Each importer should give at least the specified advance notice to one of the following applicable inspection offices prior to the time the Irish potatoes would be imported.

Ports and points	Inspection office	Advance notice (days)
All Maine ports and points.	Officer-In-Charge, Post Office Box 688, Caribou, Maine 04736 (Telephone—496-8511).	1
Port of Boston, Mass	Officer-In-Charge, Room 725, 408 Atlantic Ave., Boston, Mass. 02210 (Telephone—223-7753).	1
Port of New York, N.Y.	Officer-In-Charge, Room 28A, Hunts Point Market, Bronx, N.Y. 10474 (Telephone—991-7669 and 7668).	1
Port of Philadelphia, Pa.	Officer-In-Charge, Room 239, Produce Bldg., 3301 South Galloway St., Philadelphia, Pa. 19148 (Telephone—Dewey 6-0845).	1
Port of New Orleans, La.	Officer-In-Charge, Room 5027, Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113 (Telephone—527-6741 and 6742).	.....
All other ports and points.	Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (Telephone—447-5870).	3

(2) In the event the required inspection is performed prior to the arrival of

the potatoes at the port of entry, the inspection certificate that is issued must show that the inspection was performed at the time of loading such potatoes for direct transportation to the United States; and if transportation is by water, the certificate must show that the inspection was performed at the time of loading onto the vessel.

(3) Inspection certificates shall cover only the quantity of potatoes that is being imported at a particular port of entry by particular importers.

(4) Each inspection certificate issued with respect to any Irish potatoes to be imported into the United States shall set forth, among other things:

- (i) The date and place of inspection;
- (ii) The name of the shipper, or applicant;
- (iii) The commodity inspected;
- (iv) The quantity of the commodity covered by the Certificate;
- (v) The principal identifying marks of the containers;
- (vi) The railroad car initials and number, the truck and trailer number, the name of the vessel, or other identification of the shipment; and
- (vii) The following statement if the facts warrant: Meets U.S. Import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937.

(h) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of Irish potatoes for the purpose of making it eligible for importation under the Act.

(1) *Definitions.* (i) For the purpose of this part potatoes meeting the requirements of Canada No. 1 grade and Canada No. 2 grade shall be deemed to comply with the requirements of the U.S. No. 1 grade and U.S. No. 2 grade, respectively, and the tolerances for size, as set forth in the U.S. Standards for Potatoes (§§51.1540 to 51.1556, inclusive of this title) may be used.

(2) *Importation* means release from custody of the U.S. Bureau of Customs.

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to potatoes imported for canning, freezing, other processing, livestock feed, charity, or relief, but such potatoes shall be

## § 980.117

## 7 CFR Ch. IX (1-1-02 Edition)

subject to the safeguard provisions contained in § 980.501. Processing includes canning, freezing, dehydration, chips, shoestrings, starch and flour. Processing does not include potatoes that are only peeled, or cooled, sliced, diced, or treated to prevent oxidation, or made into fresh potato salad.

[34 FR 8044, May 22, 1969, as amended at 35 FR 8204, May 26, 1970; 36 FR 9634, May 27, 1971; 37 FR 8059, Apr. 25, 1972; 54 FR 22577, May 25, 1989; 57 FR 30382, July 9, 1992; 58 FR 69189, Dec. 30, 1993; 61 FR 13060, Mar. 26, 1996]

### § 980.117 Import regulations; onions.

(a) *Findings and determinations with respect to onions.* (1) Under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby found that:

(i) Grade, size, quality, and maturity regulations have been issued regularly under Marketing Orders No. 958 and 959, both as amended;

(ii) Since December 9, 1985, grade, size, quality, and maturity regulations have been in effect pursuant to these orders during the period August through July;

(iii) The marketing of onions can be reasonably distinguished by the seasonal categories, i.e., late summer and early spring. The bulk of the late summer crop is harvested and placed in storage in late summer and early fall and marketed over a period of several months extending into the following spring. But the onions harvested from the early spring crop are generally marketed as soon as the onions are harvested. The marketing seasons for these crops overlap;

(iv) Concurrent grade, size, quality, and maturity regulations under the two marketing orders are expected in future seasons, as in the past.

(2) Therefore, it is hereby determined that: Imports of onions during the June 5 through March 9 period are in most direct competition with the marketing of onions produced in designated counties of Idaho and Malheur County, Oregon, covered by Marketing Order No. 958, as amended (7 CFR part 958), and during the March 10 through June 4 period the marketing of imported onions is in most direct competition with onions produced in designated counties in South Texas cov-

ered by Marketing Order No. 959, as amended (7 CFR part 959).

(b) *Grade, size, quality, and maturity requirements.* On and after the effective date hereof no person may import onions as defined herein unless they are inspected and meet the following requirements:

(1) During the period June 5 through March 9 of each marketing year, whenever onions grown in designated counties in Idaho and Malheur County, Oregon, are regulated under Marketing Order No. 958, imported onions shall comply with the grade, size, quality, and maturity requirements imposed under that order.

(2) During the period March 10 through June 4 of each marketing year, whenever onions grown in designated counties in South Texas are regulated under Marketing Order No. 959, imported onions shall comply with the grade, size, quality, and maturity requirements imposed under that order.

(c) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 110 pounds (50 kilograms) may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supercede the restrictions or prohibitions on onions under the Plant Quarantine Act of 1912.

(e) *Designation of governmental inspection service.* The Federal or the Federal-State Inspection Service, Food Safety and Quality Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality, and maturity of onions that are imported into the United States under the provisions of section 8e of the act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the onions meet the U.S. import requirements for onions under section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of onions.

## Agricultural Marketing Service, USDA

§ 980.117

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 2851). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the onions will be imported.

Ports	Office	Advance notice (days)
All Texas points .....	Officer-in-charge, 1301 West Expressway, Alamo, Tex. 78516. Phone 512-787-4091 or 512-787-6881.	1
All Arizona points .....	Officer-in-charge, P.O. Box 1614, Nogales, Ariz. 85621. Phone 602-287-4783.	1
All California points ..	Officer-in-charge, 784 South Central Ave., room 266, Los Angeles, Calif. 90021. Phone 213-688-2489.	3
All Hawaii points .....	Officer-in-charge, P.O. Box 22159, Pawaa Substation, Honolulu, Hawaii 96822. Phone 808-941-3071.	1
All Puerto Rico points	Officer-in-charge, P.O. Box 9112, Santurce, P.R. 00908. Phone 809-783-2230 or 809-783-4116.	2
New York City, N.Y. ..	Officer-in-charge, room 28A, Hunts Point Market, Bronx, N.Y. 10474. Phone 212-991-7669 or 212-991-7668.	1
New Orleans, La. ....	Officer-in-charge, 5027 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113. Phone 504-589-6741 or 504-589-6742.	1
Miami, Fla. ....	Officer-in-charge, 1350 Northwest 12th Ave., room 530, Miami, Fla. 33136. Phone 305-324-6116 or 305-324-6117.	1

Ports	Office	Advance notice (days)
All other Florida points.	Officer-in-charge, P.O. Box 1232, Winter Haven, Fla. 33880. Phone 813-294-3511, extension 33.	1
All other points .....	Chief, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, Washington, D.C. 20250. Phone 202-447-5870.	3

(4) Inspection certificates shall cover only the quantity of onions that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any onions to be imported into the United States shall set forth, among other things:

- (i) The date and place of inspection;
- (ii) The name of the shipper, or applicant;
- (iii) The commodity inspected;
- (iv) The quantity of the commodity covered by the certificate;
- (v) The principal identifying marks on the containers;
- (vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and
- (vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e-1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of onions for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, *Onions* means all varieties of *Allium cepa* marketed dry, except dehydrated, canned, or frozen onions, pickling onions in brine, onion sets, green onions or braided red onions. The term *U.S. No. 2* shall have the same meaning as set forth in the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195 through 2851.3209), U.S. Standards for Grades of Creole Onions (7 CFR 2851.3955 through 2851.3970), or in the U.S. Standards for Grades of Onions Other Than Bermuda-Granex-Grano and Creole Types (7 CFR 2851.2830

through 2851.2854), whichever is applicable to the particular variety, and variations thereof specified in this section. The term *moderately cured* means the onions are mature and are more nearly well cured than fairly well cured. *Importation* means release from custody of the U.S. Bureau of Customs. The term *pearl onions* means onions produced using specific cultural practices that limit growth to 1¾ inches in diameter or less.

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to onions imported for processing, livestock feed, charity, or relief, and pearl onions not larger than 1¾ inches in diameter, onion sets (plantings), braided red onions, and minimum quantity shipments of 110 pounds, but such onions shall be subject to the safeguard provisions in § 980.501. Processing includes canning, freezing, dehydration, extraction (juice) and pickling in brine. Processing does not include fresh chop, fresh cut, convenience food or other pre-packaged salad operations. Pearl onions must be inspected for size prior to entry into the United States.

[43 FR 5500, Feb. 9, 1978, as amended at 52 FR 8872, Mar. 20, 1987; 52 FR 19281, May 22, 1987; 54 FR 8520, Mar. 1, 1989; 58 FR 69189, Dec. 30, 1993; 59 FR 46912, Sept. 13, 1994; 61 FR 13060, Mar. 26, 1996; 61 FR 25557, May 22, 1996]

**§ 980.212 Import regulations; tomatoes.**

(a) *Findings and determinations with respect to fresh tomatoes.* (1) Under Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby found that:

(i) Grade, size, quality and maturity regulations have been issued from time to time under Marketing Order No. 966, as amended;

(ii) The marketing of fresh tomatoes from Florida covered by Marketing Order No. 966, as amended, can reasonably be expected to occur during the months of October through June;

(2) Therefore, it is hereby determined that imports of fresh tomatoes during the months of October through June are in most direct competition with the marketing of fresh tomatoes produced in Florida covered by Marketing Order No. 966, as amended.

(b) *Grade, size, quality and maturity requirements.* On and after the effective date hereof no person may import fresh tomatoes except pear shaped, cherry, hydroponic and greenhouse tomatoes as defined herein, or tomatoes to be used in noncommercial outlets for experimental purposes, unless they are inspected and meet the following requirements;

(1) From October 10 through June 15 of each season, tomatoes offered for importation shall be at least 2⅞ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter. All lots of tomatoes shall be at least U.S. No. 2 grade.

(2) Prior to importation of tomatoes to be used in noncommercial outlets for experimental purposes, the importer shall apply for and obtain from the Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250, an approved Certificate for Special Purpose Shipment, complete Part I and comply with all procedures specified thereon. A separate certificate is required for each shipment. Three copies of the certificate shall accompany shipment, of which one copy shall be surrendered to the Federal or Federal-State Inspector of the U.S. Department of Agriculture at the port of entry.

(3) Upon completion of shipment receiver making final disposition of the tomatoes shall complete Part II of the Certificate. Importer shall be responsible for the return, within 10 days, of a signed copy of the certificate to the Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250, certifying that the tomatoes were used for the purpose specified thereon.

(c) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 60 pounds may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on tomatoes under the Plant Quarantine Act of 1912.

(e) *Designation of Governmental inspection service.* The Federal or the Federal-State Inspection Service, Food Safety

## Agricultural Marketing Service, USDA

\$ 980.212

and Quality Service, United States Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality and maturity of tomatoes that are imported into the United States under the provisions of Section 8e of the act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the tomatoes meet the United States import requirements for tomatoes under Section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of fresh tomatoes.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 2851). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since the inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the tomatoes will be imported.

Ports	Office	Advance notice (days)
All Texas points .....	Officer-in-charge, 1301 West Expressway, Alamo, Tex. 78516, phone 512-787-4091 or 6881.	1
All Arizona points .....	Officer-in-charge, P.O. Box 1614, Nogales, Ariz. 85621, phone 602-287-2902.	1
All California points ..	Officer-in-charge, 784 South Central Ave., room 266, Los Angeles, Calif. 90021, phone 213-688-2489.	1

Ports	Office	Advance notice (days)
All Hawaii points .....	Officer-in-charge, P.O. Box 22159, Pawaa substation, Honolulu, Hawaii 96822, phone 808-941-3071.	1
All Puerto Rico points	Officer-in-charge, P.O. Box 9112, Santurce, P.R. 00908, phone 809-783-2230 or 4116.	2
New York, N.Y. ....	Officer-in-charge, room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone 212-991-7669 or 7668.	1
New Orleans, La. ....	Officer-in-charge, 5027 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans La. 70113, phone 504-589-6741 or 6742.	1
Miami, Fla. ....	Officer-in-charge, 1350 Northwest 12th Ave., room 530, Miami, Fla. 33136, phone 305-324-6116 or 6117.	1
All other Florida points.	Officer-in-charge, P.O. Box 1232, Winter Haven, Fla. 33880, phone 813-294-3511, ext. 33.	1
All other points .....	Chief, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, Washington, DC 20250, phone 202-447-5870.	3

(4) Inspection certificates shall cover only the quantity of tomatoes that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any tomatoes to be imported into the United States shall set forth, among other things:

- (i) The date and place of inspection;
- (ii) The name of the shipper, or applicant;
- (iii) The commodity inspected;
- (iv) The quantity of the commodity covered by the certificate;
- (v) The principal identifying marks on the containers;
- (vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and
- (vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e-1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation



any shipment of tomatoes for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, *Importation* means release from custody of the United States Bureau of Customs. *Cherry tomatoes* means cerasiform types commonly referred to as “cherry tomatoes.” *Pear shaped tomatoes* means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top and Roma varieties. *Hydroponic tomatoes* means tomatoes grown in solution without soil. *Greenhouse tomatoes* means tomatoes grown indoors. The terms relating to grade and size, as used herein, shall have the same meaning as when used in the U.S. Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855 to 2851.1877; title 7, chapter I, part 51 was redesignated title 7, chapter 28, part 2851 on June 27, 1977).

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to tomatoes for charity, relief, canning or pickling, but such tomatoes shall be subject to the safeguard provisions contained in § 980.501. Processing includes canning and pickling.

[42 FR 55192, Oct. 14, 1977, as amended at 43 FR 3349, Jan. 25, 1978; 57 FR 27352, June 19, 1992; 58 FR 69189, Dec. 30, 1993; 61 FR 13060, Mar. 26, 1996; 63 FR 12401, Mar. 13, 1998]

**§ 980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.**

(a) Each person who imports:

(1) Potatoes, onions or tomatoes for consumption by charitable institutions or distribution by relief agencies;

(2) Potatoes, onions, or tomatoes for processing;

(3) Potatoes or onions for livestock feed; or

(4) Pearl onions, shall obtain an “Importer’s Exempt Commodity Form” (FV-6) from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, and shall show the completed “Importer’s Exempt Commodity Form” to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is

filed. One copy shall be mailed to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA with a postmark no later than two days after the date of importation and a third copy shall accompany the lot to the exempt outlet specified on the form. Any lot offered for inspection and, all or a portion thereof, subsequently imported as exempt under this provision shall be reported on an “Importer’s Exempt Commodity Form” and such form, accompanied by a copy of the applicable inspection certificate, shall be mailed to the Marketing Order Administration Branch.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall also receive a copy of the same numbered Importer’s Exempt Commodity Form filed by the importer or customs broker and shall certify, by completing and signing Section II of the form and mailing the form to the Marketing Order Administration Branch within two days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

(c) It is the responsibility of the importer to notify the Marketing Order Administration Branch of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, returned to the country of origin, or otherwise disposed of. In such cases, a second “Importer’s Exempt Commodity Form” must be filed by the importer providing sufficient information to determine ultimate disposition of the exempt lot and such disposition shall be so certified by the final receiver.

(d) All FV-6 forms and other correspondence regarding entry of 8e commodities must be mailed to the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456, telephone (202) 720-4607. FV-6 forms submitted by fax must be followed by a mailed, original copy of the FV-6. Fax transmissions may be sent to the MOAB at (202) 720-5698.

[61 FR 13060, Mar. 26, 1996]